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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,994	01/15/2004	Patrick Owen O'Leary	001	3723
75	90 06/20/2006		EXAM	INER
PATRICK OWEN O'LEARY			CECIL, TERRY K	
3417 WYTHE A	AVENUE			
RICHMOND, VA 23221			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
Office Action Commons	10/756,994	O'LEARY, PATRICK OWEN				
Office Action Summary	Examiner	Art Unit				
	Mr. Terry K. Cecil	1723				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	1. the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 1-15-	2004					
· <u> </u>	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
• • • • • • • • • • • • • • • • • • • •	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4)⊠ Claim(s) <u>1-20</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
<u> </u>	6) Claim(s) is/are rejected.					
•	7) Claim(s) is/are objected to.					
8)⊠ Claim(s) <u>1-20</u> are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)	_					
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Pages No(s)/Mail Data						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)						
Paper No(s)/Mail Date	6) Other:	,, , , , , , , , , , , , , , , , , , , ,				

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, drawn to a fuel filter, classified in class 210, subclass 85.
 - II. Claims 15-20, drawn to a method of filtering, classified in class 210, subclass767.
- 2. The inventions are distinct, each from the other because of the following reasons:
- Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Group I can be used in method that does not require a configuration wherein, after passing through the valve casing port, the unfiltered fuel is then passed to the filter media of the second chamber—of Group II.
- Restriction for examination purposes is proper because of the reasons given above and also because (i) they have acquired a separate status in the art as shown by their different classification, (ii) the search required for the respective groups is not necessarily required by each of the other groups, and (iii) their subject matter is recognized as divergent.
- 3. A telephone call was made to P. O'Leary on 6-16-2006 to request an oral election to the above restriction requirement, but did not result in an election being made. Mr. O'Leary requested a written restriction.

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4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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5. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mr. Terry K. Cecil whose telephone number is (571) 272-1138.

The examiner can normally be reached on 8:00a-4:30p M-F..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Wanda L. Walker can be reached on (571) 272-1151. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Primary Examiner

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TKC